IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 681 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRAVINBHAI B PATEL

Versus

STATE OF GUJARAT

Appearance:

MR KR KOSHTI for Petitioners

GOVERNMENT PLEADER for Respondent No. 1, 3

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 09/01/2001

ORAL JUDGEMENT

The petitioners are working as Junior Instructors under respondent No.3 and as part of their duty they are imparting training to the trainees in the field of

Diamond polishing. Appointment order given to one of the petitioners is at annexure "A" to the petition whereby it appears that petitioner No.1 was appointed as a Junior Instructor on contract basis to work for the period commencing from 1.8.1996 to 30.11.1996 on adhoc basis. The said appointment was based on the conditions enumerated in the order dated 25.7.1996. It has been submitted by learned advocate Mr.Koshti appearing for the petitioners that at present the petitioners' salary has been increased and the petitioners are paid fixed salary of Rs.3,000/-p.m.

2. The grievance which the petitioners have ventilated in the present petition is with regard to payment of lesser salary. It has been submitted by the learned advocate appearing for the petitioners that other Junior Instructors who are similarly situated are paid salary in the payscale of Rs.1350-2200/- whereas the petitioners are paid fixed salary of Rs.3,000/-p.m. Thus, the grievance ventilated by the petitioners in the present petition is with regard to lesser payment of salary and it is their case that they are given discriminatory treatment by the respondent-authorities. According to the petitioners, they must be paid same salary which is being paid to other similarly situated Junior Instructors working in institute of the respondent No.3 where the petitioners are also working.

3. It has been submitted by the learned advocate appearing for the petitioners that as the petitioners are paid fixed salary which is lesser than the salary paid to other similarly situated Junior Instructors, the petitioners have made several representations to respondent No.3 under whom they are working. It is also their case that respondent No.3 has recommended their case to respondent No.2, however, no final action has been taken by respondent No.1 or respondent No.2 on the representations made by the petitioners.

4. Learned Asstt.Govt.Pleader Mr.Joshi has appeared for the respondent authorities and has relied upon the affidavit-in-reply which has been filed by respondent No.3. It has been submitted by him that the petitioners were not given regular appointment, and therefore, they are not given salary which is normally given to other Junior Instructors. It has been further submitted by him that the training institute where the petitioners are working is not to be continued for ever. The said institute was established under the Government Resolution dated 30.8.1988 to see that the employees and the dependents of the employees of closed mills are given

training in the subject of Diamond polishing so that they can earn their livelihood and it is not certain as to for how much period the institute where the petitioners are working would continue. It has been submitted that other such institutions set up in other districts have already been closed down on account of paucity of trainees. It has been submitted by him that every year a fresh decision is taken as to whether the institute where the petitioners are imparting training to other trainees is to be continued.

5. Learned Asst.Govt.Pleader-Mr.Joshi has also drawn my attention to an order passed in Special Civil Application No.8067/90 which was filed by other Junior Instructors, namely, Bhanuprasad P.Patel and others who had ventilated similar grievance in the said petition. Copy of the order dated 20.10.92 is annexed at Annexure "E" to the petition. In case of the said petitioners, a representation was made to the Government, which was pending at the time when the petition was finally disposed of. In the circumstances, this Court (Coram: A.P.Ravani & Y.B.Bhatt,JJ) had directed the respondent-Government authorities to decide the representation and it was also observed that in case of rejection of the representation it would be open to the said petitioners to approach this Court for challenging the order which might be passed on the representation.

6. In the circumstances, Learned Asstt.Govt.Pleader Shri Joshi has submitted that instead of passing any final order in this petition, the respondent-State should be permitted to take final action on the representation which is pending before respondents Nos 1 and 2. The representations referred to in this petition were made in the month of March, 1997, but it appears that till today the said representations have not been decided by the concerned respondents.

7. Looking to the facts of the case and in view of the fact that the representations which have already been made are pending with the Government authorities, it would be just and proper to direct the respondent authorities to take final decision on the representations made by the petitioners in the matter of fixation of their payscales. With regard to representations made by the petitioners earlier, respondent No.3 has recommended the case of the petitioners to respondent No.2 under his letter dated 11th June, 1999. It has been submitted by Mr.Koshti that the recommendation of respondent No.3 clearly denotes that the petitioners have a good case for getting payscale which is given to other similarly

situated Junior Instructors.

8. Incidentally, it has been submitted by learned advocate Shri Koshti appearing for the petitioners that if the respondent authorities are to decide the representations, the petitioners would like to add something to their representations and the petitioners shall make a fresh representation to respondent No.3 on or before 25.1.2001.

9. In the circumstances, it is directed that the petitioners shall make a fresh representation to respondent No.3 before 25.1.2001. Respondent No.3 shall forward the said representation to respondents Nos 2 and 1 along with his comments before 5.2.2001 so that final decision can be taken by the concerned respondent on the said representations on or before 28.2.2001. Final decision taken by the concerned respondent shall be communicated to the petitioners before 15.3.2001.

10. Needless to say that if the representation is turned down, it would be open to the petitioners to challenge the validity of the order which might be passed on the representation before appropriate forum.

11. Learned advocate Mr.Koshti appearing for the petitioners apprehends that because of filing of this petition, the respondent authorities might terminate the services of the petitioners. In the circumstances, it is directed that the services of the petitioners shall not be terminated except in accordance with law till 28.2.2001.

12. Rule is made absolute to the aforesaid extent with no order as to costs.

9.1.2001 (A.R.DAVE,J)